

**STATEMENT OF
COMMISSIONER JONATHAN S. ADELSTEIN**

RE: Commission Reminds Broadcast Licensees, Cable Operators and Others of Requirements Applicable to Video News Releases and Seeks Comment on the Use of Video News Releases by Broadcast Licensees and Cable Operators, Public Notice (released April 13, 2005)

I am pleased that today the Commission issues a Public Notice reminding broadcasters, cable operators, and others about our sponsorship identification rules as they apply to video news releases, or VNRs. I commend Chairman Kevin Martin for his leadership in addressing the growing concern about the role of VNRs in today's media environment. We have recently received a large number of complaints from the public about VNRs that were created by or for the federal government, and which were broadcast on television stations without identifying the government's role in developing the VNR.¹ Two U.S. Senators also have asked the Commission to investigate whether the broadcast of government-sponsored VNRs without attribution complies with our sponsorship identification rules.² Today's Public Notice is in response to these developments, and reminds broadcast stations, cable operators, and others of their disclosure obligations under our rules, if and when they choose to air VNRs, and to reinforce that we will take appropriate enforcement action against stations that do not comply with these rules.

It's high time for the FCC to remind broadcasters and others subject to our sponsorship identification rules that they have a legal obligation to let their viewers know when they run stories from someone else. People have a legal right to know the real source when they see something on TV that is disguised as "news." We are already seeing public confidence in the news dropping quickly, and this step should help restore confidence.

In issuing the Public Notice, the Commission of course takes no position on recent controversies surrounding the appropriateness of the government creating and developing VNRs more generally. Congress has long prohibited agencies from using appropriated funds for propaganda.³ In a recent memorandum to department and agency heads, the U.S. Government Accountability Office stated that "agencies may not use appropriated funds to produce or distribute prepackaged news stories intended to be viewed by television audiences that conceal or do not clearly identify for the television viewing audience that the agency was the source of

¹ *E.g.*, Letter from Josh Silver, Executive Director, Free Press, et al, to Hon. Kevin Martin, Chairman, FCC et al. (March 21, 2005). The Commission has also received recently thousands of emails about VNRs.

² Letter from Hon. John F. Kerry, U.S. Senator, to Hon. Michael Powell, Chairman, FCC (March 15, 2005); Letter from Hon. Daniel Inouye, U.S. Senator, to Hon. Michael K. Powell, Chairman (March 14, 2005).

³ Current appropriations law states that "[n]o part of any appropriation contained in this or any other Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by Congress," and nearly identical language has existed for decades. Consolidated Appropriations Act, 2005, Pub. L. No. 108-477, div. G, title II, § 624, 118 Stat. 2809, 3278 (Dec. 8, 2004).

those materials.”⁴ But in a slightly later memorandum to the same audience, the Office of Management & Budget stated that the GAO guidance “conflicts with the views of the Department of Justice’s Office of Legal Counsel (‘OLC’) . . . and it is OLC (subject to the authority of the Attorney General and the President), and not the GAO, that provides the controlling interpretations of law for the Executive Branch.”⁵ These issues are for the Administration and Congress to resolve. The Commission’s role is limited to ensuring that broadcast stations and others identify sponsors when required to do so.

So we have seen a debate between the GAO and the OMB/DOJ about whether governmental VNRs constitute “covert propaganda.” The surprising thing, though, is nobody bothered to mention that there are separate disclosure requirements enforced by the FCC under the Communications Act.

Today, we are putting broadcasters and others subject to our rules on notice that we intend to enforce our rules vigorously. And we ask some key questions about new practices in the industry that deserve scrutiny. We plan to issue a report based on our findings to clarify our rules even further to broadcasters.

The laws we are charged to enforce focus on the need for broadcasters and others subject to the rules to disclose the source of material they put on the air. It would be up to Congress if it chooses to further strengthen the responsibility of government agencies to disclose more fully that material is government-produced.

⁴ Memorandum from David M. Walker, Comptroller of the United States to Heads of Departments, Agencies, and Others Concerned at 2 (Feb. 17, 2005).

⁵ Memorandum from Joshua B. Bolten, Director, Executive Office of the President, Office of Management & Budget, to Heads of Departments & Agencies (March 11, 2005).